

Guidance on Section 319 Grant Funding Eligibility for Projects within Designated Municipal Separate Storm Sewer Systems (MS4)

1. What is an MS4?

A municipal separate storm sewer system (MS4) is a conveyance or system of conveyances (sewers, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, storm drains) that is:

- Owned or operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage districts, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the Clean Water Act that discharges to waters of the United States;
- Designed or used for collecting or conveying stormwater;
- Which is not a combined sewer; and
- Which is not part of a publicly owned treatment works.

The permit requires that each community shall develop, implement, and enforce a comprehensive Storm Water Pollution Prevention and Management Program.

2. How do I know if my project is within an MS4 area?

MS4 areas are based on urban population and the permits were issued in two phases:

- Phase I was for urban areas with more than 100,000 people. Phase I of the storm water permitting process relied on NPDES permit coverage to improve the quality of storm water runoff. Larger municipalities with separate storm sewer systems (MS4s) were included in Phase I regulations. Des Moines and Cedar Rapids were the only Iowa cities required to obtain a permit to discharge storm water under the Phase I program.
- Phase II generally covers smaller municipalities in “urbanized areas”. Other factors, such as population density and growth were also criteria used by IDNR to designate MS4 entities. There are exceptions that can include universities, colleges, correctional facilities, hospitals, conservancy districts, homeowner's associations, transportation networks, and military bases. In Iowa, 43 communities and three universities obtain permits and strive to improve storm water quality.

Below is a listing of Cities and Universities in Iowa Required to Obtain Storm Water Permits for their MS4s:

Altoona, Ames, Ankeny, Asbury, Bettendorf, Bondurant, Buffalo, Carter Lake, Cedar Falls, Cedar Rapids, Clinton, Clive, Coralville, Council Bluffs, Davenport, Des Moines, Dubuque, Elk Run Heights, Evansdale, Grimes, Hiawatha, Iowa City, Iowa State University, Johnston, Le Claire, Marion, Marshalltown, North Liberty, Norwalk, Ottumwa, Panorama Park, Pleasant Hill, Raymond, Riverdale, Robins, Sergeant Bluff, Sioux City, Storm Lake, University Heights, University of Northern Iowa, University of Iowa, Urbandale, Waterloo, Waukee, West Des Moines and Windsor Heights.

3. How is the Section 319 grant program related to the MS4 permit program?

The Section 319 program and the MS4 program are both aimed at reducing pollutant loadings to water resources. However, there are some key distinctions:

- **Purpose of Program:**
 - MS4 Program: Regulatory - Discharges from storm water conveyance systems are "point sources" and are covered under a general or individual permit.
 - 319 Program: Assistance - The 319 program supports watershed planning and implementation of nonpoint source control measures through grants.
- **Scope of Program:**
 - MS4 Program: Effective in urban and suburban areas (designated areas, usually with populations > 10,000).
 - 319 Program: Carried out in urban, suburban, rural and agricultural areas.

While both programs are aimed at reducing pollutant loadings from runoff, 319 grant funds cannot be used to pay for the stormwater pollution controls outlined in the MS4 area's permit; 319 funds cannot be used to meet federal permit requirements

4. Where do I find out what stormwater pollution controls are required under the applicable MS4 permit?

In Iowa MS4 permits, the stormwater pollution controls are found under Part II. STORM WATER POLLUTION PREVENTION & MANAGEMENT PROGRAM.

The minimum control measures required are spelled out in 567 Iowa Administrative Code (IAC) 64.13(g). Some MS4 permits include additional control measures such as the City of Des Moines.

Minimum control measures listed in 567 IAC 64.13(g) are:

- Public education and outreach;
- Public participation/involvement;
- Illicit discharge, detection and elimination;
- Construction site runoff control;
- Post-construction site runoff control; and
- Pollution prevention/good housekeeping.

For each control measure there is a list of practices and/or Best Management Practices (BMPs) that the MS4 entity is required to implement to control their stormwater. For the most part, Section 319 funds cannot be used to construct facilities or carry out activities required as part of the minimum control measures.

Additionally post-construction site runoff control, deals with storm water management measures that will be in place at sites after construction projects are completed. In some cases this cites manuals that contain appropriate BMPs. In that case, you will have to track down the appropriate manual to determine what BMPs are included in the local MS4 permit.

5. Can I use Section 319 grant funds to pay for education based programs like storm drain stenciling, brochures, and educational workshops/seminars?

You cannot use 319 grant funds to fulfill MS4 permit requirements; regardless of whether that requirement is an educational program or a constructed BMP, such as a constructed wetland for stormwater treatment. However, if you go 'above and beyond' the permit requirements, you will be able to use 319 funds for programs and BMPs. For education programs, above and beyond can usually be established by focusing on the entire watershed and not just the MS4 area. Above and beyond determinations need to be made on a case-by-case basis, but there are two broad examples worth mentioning:

1. Public education and outreach might call for an education event focusing on stormwater prevention, and your 319 group wants to do something similar. By focusing your event on the entire watershed, and not just the MS4 area, as well as touching on other watershed issues beyond stormwater prevention, you have gone above and beyond the control measure and become 319 eligible.
2. Public participation/involvement might call for storm drain stenciling, which is a good community outreach event your 319 group also wanted to focus on. The stenciling is above and beyond the control measure, and is 319 eligible, if you extend it beyond the MS4 area and across the entire watershed.

6. I want to install BMPs that are listed in the MS4 permit, and I want to install them within the MS4 area. Can I use 319 monies to pay for the BMPs?

The control measure for post-construction storm water management lists constructed BMPs for sites where there are construction activities, e.g., a new residential subdivision or a commercial center is being built. Storm water control features at these sites would not be eligible for 319 funds if the features are required by the MS4 Rule or are identified in the permit. On the other hand, in most cases the post-construction requirements for managing storm water do not apply to existing sites (where there is no construction). If you want to, as an example, install rain gardens, you likely can use 319 funds for their installation on existing development anywhere in the MS4 area. If rain gardens are listed in the MS4 Rule or permit as a post-construction control measure, and you want to use 319 funds to install them on new construction, you will have to show that your rain garden design is above and beyond the design specifications listed in the MS4 requirements.

These determinations need to be made on a case-by-case basis.

7. What if I want to do a retrofit on an existing BMP? Is that considered 'new construction'?

Retrofits of existing BMPs are not considered new construction. However, in order to be eligible for 319 funds, the retrofit needs to include features that improve water quality.

8. Can I get 319 funding to address the quality of stormwater that has entered the MS4 conveyance system?

Projects to treat storm water that has entered the MS4 conveyance system likely are not eligible for 319 funding, however, projects that treat or control stormwater before it enters the MS4 storm water conveyance system can be eligible for 319 funding. For example, a BMP located at the edge of an existing parking lot such that it intercepts and treats runoff from the parking lot before that water goes to the municipal system would potentially be eligible, even if the runoff flowed through a grate or catch basin; the BMP would be intercepting runoff from the parking lot before that water goes into the municipal sewer system. On the other hand, a practice placed at the end of the conveyance system, (end-of-pipe device) such as a detention facility to treat storm water from the municipal storm sewer system before it is discharged to a water body, would generally be considered a point source control and would not be eligible for Section 319 funding.

In review, Section 319 cannot pay to address the quality of water once it has entered the MS4 conveyance system but potentially can pay for projects that

treat the water before it enters the MS4 system and after it leaves the MS4 system (see question #9).

9. Can I get 319 funding to address the quality of water that has left the MS4 conveyance system?

For stormwater leaving the MS4 conveyance system to be potentially eligible for 319 funds, the project must address a water quality problem created as the storm water flows from the system into receiving water (stream, lake, and wetland). To be eligible for 319 funds, the stormwater must be collecting or causing additional pollutants (as it erodes a slope for example) separate from what it carried while inside the MS4 system. The stormwater must also be flowing over existing development; projects focusing on stormwater flowing over new construction are not eligible unless the above and beyond criteria is met.

Examples of unfundable projects include:

1. A project to extend a conveyance system or move water discharged from an MS4 into a best management practice would generally not be eligible for 319 funds. For example, a project to construct a swale and direct storm water from a sewer to the swale, for subsequent release to receiving waters, would generally not be eligible for 319 funds. The swale, in effect, is an extension of the conveyance system.
2. Use of 319 funds to dissipate the energy from an MS4 release point is inappropriate unless the project is on existing development and also has a feature to improve water quality. If you can show that energy from the MS4 release is contributing pollutant loads to the receiving water, and that the project will reduce pollutant loads, the project may be eligible for 319 funds.

As noted above, a project to treat or control storm water from a conveyance system would generally not be 319-eligible. However, projects that address pollutants the stormwater picks up as it flows across existing development and towards a receiving waterbody may be eligible for 319 funds. For example, creating a wetland or creating or enhancing or restoring a natural drainage area could be eligible for 319 funds. Note that there must be a link to water quality for a project to be eligible for 319 funds.

11. Would a project to "daylight" a stream section in an MS4 area be 319 eligible?

A project to "daylight" (unpipe a section of stream and restore the open channel) a stream section may be eligible for 319 funds. A daylighting project could potentially enhance the habitat of a water of the State (vs. being an improvement

to a MS4 conveyance, which would not be 319-eligible). To be eligible the project applicant should demonstrate the link to water quality (e.g., the daylighting will help address impaired biological communities). If the daylighting is being done to avoid a maintenance or replacement cost for the enclosed pipe, the portion of the project that would be 319 eligible would be the difference between the costs for repair/replacement of the pipe and the cost of the full daylighting project.

12. Who can I talk to at IDNR about whether my specific project would be eligible for 319 funds in an MS4 area?

Questions about BMPs in MS4 areas can only be answered on a case-by-case basis. You can bring your specific question to the attention of your IDNR 319 grant program coordinator or project officer.

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